GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri K. Rathaiah S/o Sreeramulu, Occ: ARPC 1523, Prakasam District, against the Proceedings Rc.No.C4/601/2003, dt.14.07.2004 of the District Collector, Prakasam - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.78 Dated:20.06.2016

Read the following:

1. Proceedings of the District Collector, Prakasam, Rc.No.C4/601/2003, dt.14.07.2004.
2. Appeal Petition filed by Sri K.Rathaiah S/o Sree Ramulu R/o Prakasam District before the Government on 16.08.2004.
3. Govt. Memo No. 8415/CV.2/2004, S.W(CV.2) Department, dated 28.8.2004.
4. Order of the Hon'ble High Court of A.P., Hyderabad in W.P. No. 27746/2015, dated 21.12.2009.
5. From the District Collector, Prakasam, Lr. No.Rc.C4/695/2010, dated17.07.2010.
6. Govt. Memo No.8415/CV.2/2004, S.W(CV.2) Department, dt: 20.10.2012, 16.01.2013, 05.11.2014, 24.11.2014 & 23.02.2015.
7. Govt. Memo No. 8415/CV.2/2004, T.W(CV.2) Department, dated 02.04.2015.
8. Written arguments filed by the Counsel for the Appellant before the Government on dated 18.04.2015.

ORDER:

In the reference 1st read above the District Collector, Prakasam has issued orders canceling ST- Yanadi Caste Certificate obtained from the then Tahsildar, Chinaganjam, Prakasam District in 1987 by Sri K. Rathaiah S/o Sreeramulu, Prakasam District.

2. In the reference 2nd read above, Sri K. Rathaiah S/o Sreeramulu, Prakasam District has filed an Appeal Petition before the Government against the said Proceedings of the District Collector, Prakasam. After examination, Government have admitted the said Appeal Petition and called for the parawise remarks and connected records from the District Collector, Prakasam in the reference 3rd read above.

3. Sri K. Rathaiah S/o Sreeramulu, Prakasam District has filed W.P.No.27746/2009 before the Hon'ble High Court, against said proceedings of the District Collector, Prakasam. In the reference 4th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 21.12.2009 has directed to Government to take up the appeal preferred by the petitioner against the order dated 14.07.2004 passed by the District Collector, Prakasam for hearing within a period of three months and pass appropriate orders therein. But due to several administrative difficulties the matter could not be disposed before the said date however, after giving notices from time to time to the appellant through his counsel the matter has been examined by the Appellate Authority.

4. In the reference 5th read above, the District Collector, Prakasam has furnished the Parawise remarks and connected records on the said appeal petition filed by Sri K. Rathaiah S/o Sreeramulu, Prakasam District.

5. The said Appeal Petition has been posted for hearing on 30.10.2012, 21.01.2013, 13.11.2014, 13.12.2014, 28.02.2015 & finally on 18.04.2015 and the same has been informed to the Appellant and the Counsel for the appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates

[P.T.O]

in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th & 7th read above. The Appellant, Counsel for the Appellant was present and argued the case and explained his community status and filed Written Arguments before the Appellate Authority in support of his community claim in the reference 8th read above.

6. Government after careful examination of the records/ the copies of evidences/academic record/ grounds filed by the appellant / the parawise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated 14.07.2004, it is observed that the appellant has given statement before the DLSC on 17.05.2004 that due to poverty his natural mother has given him adoption to Sri K. Sriramulu and Smt. Seetharavamma, who belongs to Reddy caste, who have no children. His adopted father was expired at the time of his childhood, after that his adopted mother Smt. Seetharavamma has joined him into Hostel at Adinarayanapuram in Chirala Mandal and recorded his caste as 'Yanadi' community as originally his parents belong to ST-Yanadi Community..

7. Further it is observed that as verified from the written arguments produced by the Counsel for appellant before the Appellate Authority that the appellant has stated that his natural parents are Sri K. Sriramulu and Smt. Seetharavamma. His mother belongs to ST-Yanadi community, his father Sri Konasam Sriramulu was died when he was at the age of 2 years old and his mother was not accepted by the family of Sri Sriramulu, therefore she shifted to the ST colony in Adinarayanapuram of Chirala Mandal, Prakasam District and lived among her relatives. The mother of the appellant had admitted the appellant in the Scheduled Tribe hostel for his education, where he studied up to 10th class.

It is clearly shows that the appellant has misguided the Government by narrating two different stories one is before the DLSC & another one is Appellate Authority.

8. Further it is also observed that the appellant has not produced any relevant documents/material in support of his ST-Yanadi community claim before the Appellate Authority at the time of hearing except school record, which is generated based on declaration given by the parents. The school certificates cannot be accepted as reflection of true caste of person. Further there is no evidence that the appellant belongs to ST-Yanadi Community and the appellant failed to produce any evidence even though lot of opportunity was given to him even by the Government. Further the appellant have failed to prove that his grandparents, parents or any relatives belong to ST-Yanadi community. The burden on the appellant U/S 6 is not discharged. Hence Government have examined the entire record & material relevant to the instant case and it is decided that the appellant obtained caste certificate fraudulently and the appellant has no iota of evidence to show that his grandparents, parents or any relatives belong to ST-Yanadi community. Further the Appellant has misguided the Government by giving two different statements, before the DLSC & another one is Appellate Authority.Hence it is apparent that the appeal is devoid of any merits and there is no infirmity found either in the order of the learned DLSC or the District Collector, Prakasam.

9. Further, the provisions relating to the Hindu Adoptions and Maintenance Act, 1956 [mainly Section 2(2)] are clear that the said Act is not applicable to the Scheduled Tribes within the meaning of Clause 25 of the Article 366 of Constitution, unless the Central Government by Notification otherwise directs. No rules are laid by the Union of India with regard to Scheduled Tribe regarding Section 2(2) of the Hindu Adoptions and Maintenance Act, 1956. The circular order issued by the Government of India vide No.35/1/72-R.U. (SCT.V) is no way helpful to the case of the Appellant as Point 5 of the said Rules speak of adoption to Scheduled Caste only but not Scheduled Tribe. Therefore, the adoption is no adoption in the eye of law and the Government is of considered view that the Appellant obtained caste certificate by playing fraud.

[Contd…]

10. Therefore, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri K. Rathaiah S/o Sreeramulu, Prakasam District does not deserve any interference. Hence, Proceedings of the District Collector, Prakasam issued vide Rc.No.C4/601/2003, dt.14.07.2004, is hereby upheld and the Appeal Petition filed by Sri K. Rathaiah S/o Sreeramulu,, is hereby dismissed and the Certificate issued by the then Tahsildar, Chinaganjam, Prakasam District deemed to be cancelled.

11. Consequently, the District Collector, Prakasam shall take necessary action in the matter.

12. The records (containing Rc.No.C4/601/2003, dt. 14.07.2004, pages 01 to 190 cf & 01-24 nf) received from District Collector, Prakasam through in the reference 5th read above, are returned herewith in original to District Collector, Prakasam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector , Prakasam.(w.e)
(with original records) (BY RPAD)

Sri K. Rathaiah S/o Sree Ramulu R/o A.R. Police Constable 1523,
Ongole, Prakasam District.

Sri K. Ananth Rao, Advocate to the Appellant,
H.No. 16-2-705/1/13, New Malakpet, Near Rice Mills,
Opp: Punjab National Bank, Hyderabad – 36.

The Superintendent of Police, Prakasam District.

The Director General of Police, A.P., Hyderabad.

Copy to:
The Director, TCR & TI, Hyderabad.
P.S. to Hon'ble Minister(SWE&TWE)
P.S. to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER